SUPREME COURT, U. S.
FILED
FEB 3 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 813

ANNIE MARY TIMMONS, *Appellant*,

v.

THE SOUTH CAROLINA TRICENTENNIAL COMMISSION AND DANIEL R. McLEOD, as Attorney General of the State of South Carolina, *Appellees*.

On Appeal From the Supreme Court of South Carolina

PETITION FOR APPELLANT FOR REHEARING

GERARD HARTZOG
714 Southern Building
Washington, D. C.

PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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Comes now the appellant and petitions this Honorable Court pursuant to Rule 58 of the Rules of this Court, for a rehearing in the above entitled case, the Order in which case was filed on January 11, 1971. In support of this petition, the appellant states the following grounds:

The appellant respectfully request the Court, to reconsider the reasons for jurisdiction, stated in the Jurisdictional Statement starting on page 5 to 12 inclusive, filed with the Court on October 7, 1970. This argument briefly and distinctly, states the grounds, that the Federal Constitutional questions are substantial by use of federal funds, pursuant to Amendment V., Article 111., Sections 1 and 2., of the United States Constitution. In support of this argument and proof of non-compliance, with the Congressional Acts, which provided the federal funds, and the HUD regulations promulgated thereunder, the Court's attention is invited to pages 29a to 36a inclusive of the APPENDIX, and specifically "Compensation Condemnees" and APPENDIX C-CONTRACT, which alone, compared to the facts of record, is proof of non-compliance, by use of federal funds, in violation of appellant's constitutional rights, without due process of law, and the taking of her private property, for alleged public use, without just, adequate and reasonable fair market value compensation, under the disguise of a federal token payment.

The power to tax, is the power to destroy, within or without, and equally true, to deprive appellant of her constitutional personal and property rights, without due process, without just compensation, by a token payment with federal funds, from Washington, is a violation and destruction of her freedom and all rights, the appellant respectfully contends, under the construction and interpretation of the V Amendment, Article 111, Section 1 and 2 of the United States Constitution.

The appellant respectfully resubmits, reemphasizes, and renews her reasons and grounds stated, in her

argument and brief, filed with the Court, on November 12, 1970, entitled The Federal Constitutional Questions are substantial, Both this Brief and the aforestated Jurisdictional Statement are incorporated in this petition by reference for the Court. The appellant urges that the reasons for jurisdiction, contained in 8 pages thereof, be reconsidered with the jurisdictional statement.

On January 13, 1971, counsel for the appellees, Mr. Graydon, addressed a letter to counsel for the appellant which was, pertinent and relevant to this petition for rehearing, in which he stated, 'the Supreme Court has dismissed the appeal and we are now going to proceed with the demolition of the buildings on the property.' * * * * * * * * * "Prior to the Supreme Court's dismissal of the appeal on Monday, I had taken the position that the Tricentennial would object to the disbursements of any funds since there was an appeal pending in the Court but this, of course, is no longer the case and I see no reason why the proceedings should not go ahead and the funds disbursed to those legally entitled to the same."

It is respectfully submitted to this Court, that upon information and belief, it appears that with respect to the first statement, that no demolition of the buildings would proceed, pending the appeal and final and ultimate adjudication by the Court, is incorrect, because demolition has proceeded in and outside of said building and the counsel for the appellees as well as this Court was notified by telegram on January 20th, 1971, copy of which is reproduced verbatim following, that this petition for rehearing was being filed with this Court, pursuant to the Rules, which kept the appeal alive, open and on the docket, and no man-

date had been issued by this Court at that time, and under these circumstances the Clerk was requested to retain the Record in the Court. Of course no disbursements of any of the funds are imminent within the near future, nor could any funds be disbursed without extended hearings before the trial Judge and pursuant to his Orders as recorded in each case, as previously Ordered.

As above stated the following telegram was sent on January 20, 1971 to Augustus T. Graydon, Esquire, counsel for appellees, Honorable Daniel R. McLeod, as Attorney General for South Carolina, and The Clerk of The Supreme Court of the United States.

Washington, D. C.

Re: Timmons v. S.C. Tri-C et al
#813 Sup. Ct. of U.S.

This acknowledges and reaffirms the statement of your position and appellant's understanding by your letter of January 13, 1971, pursuant to court order's that no disbursement of any funds or demolition of any of the properties would proceed pending ultimate disposal of the appeal in the above case, and to advise again that pursuant to Rule 58 a petition for rehearing by appellant is being filed with the Clerk of the Supreme Court of the U.S. which keeps the appeal open and alive on the docket pending ultimate disposal by the Court.

Regards,

Gerard Hartzog
714 Southern Building
Washington, D. C.

In view of the foregoing, the appellant respectfully request a rehearing pursuant to Rule 58, or otherwise, or any of the Rules of this Court, applicable hereto, and that this Honorable Court enter an appropriate Order for Jurisdiction or note probable jurisdiction for a hearing ultimately on the merits of this case.

Respectfully submitted

GERARD HARTZOG
714 Southern Building
Washington, D. C.

CERTIFICATE OF COUNSEL.

The undersigned counsel for the appellant, hereby certifies that the foregoing petition is filed in good faith and not for purpose of delay; and that the petition is restricted to the grounds above specified.

GERARD HARTZOG
Counsel for appelant.